

### **REMARKS**

Some minor amendments have been made to the existing claims in the application, and new claims 18-54 have been added to further define preferred aspects of Applicant's invention. Support for the subject matter of these new claims can be found in the Specification as follows:

Claims 18-28 find support in the original claims, but are directed specifically to SEQ ID NO. 1, SEQ ID NO. 2 or the insert in plasmid DSM 12425.

Claims 29-32 and 43-46 directed to the host cell being a bacterial host cell, especially *E. coli*, are supported at, for example, page 12, the 4<sup>th</sup> paragraph.

Claims 33-36 and 47-50 directed to the host cell being a fungal host cell are supported, for example, at page 12, the 4<sup>th</sup> paragraph.

Claims 37-42 and 51-54 directed to the plant and plant cell being of particular selected plants are supported, for example, by page 12, the 3<sup>rd</sup> paragraph through page 13, the 1<sup>st</sup> paragraph and page 18, the 2<sup>nd</sup> paragraph.

It is submitted, therefore, that all the claims are appropriately supported by the Specification and addition of the new claims does not attempt to enter new matter.

It is noted with appreciation that the claims have been indicated as being free of the prior art. The only remaining issue is the rejection under claims 1-5, 10-14 and 17 of 35 U.S.C. § 112, 1<sup>st</sup> paragraph. But the Examiner notes that this rejection can be overcome by submission of an appropriate Affidavit or Declaration regarding the Budapest Treaty Deposit. In response thereto, enclosed is an appropriate Budapest Treaty Deposit Declaration from the Applicant with respect to the deposit designated DSM 12425. It is believed that this submission overcomes the rejection under 35 § U.S.C. 112. Reconsideration and withdrawal of the rejection are, therefore, requested.

It is believed that this application is now in condition for allowance, and early action to that effect is respectfully requested.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Leonard R. Svensson Reg. No.

Application No. 10/705,195  
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30,330 at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37.C.F.R. §§1.16 or 1.14; particularly, extension of time fees.

Dated: July 9, 2007

Respectfully submitted,

By 

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